

**QLDC Council  
24 September 2015**

**Report for Agenda Item: 6**

**Department: Operations**

**Arrowtown Community Preschool – New Lease**

**Purpose**

The purpose of this report is to consider a new lease for the Arrowtown Community Preschool Inc.

**Recommendation**

That Council:

- a. **Approve** a new lease for the Arrowtown Community Preschool Inc for the land they currently occupy being part Section 6 PT 5 BLK XVIII Arrowtown Plantation SD subject to the following terms:
  - i) Rent pursuant to the Community Facility Pricing Policy;
  - ii) Rent reviewed every 2 years in accordance with the Community Facility Pricing Policy;
  - iii) Term to be 10 years, with 2 rights of renewal provided both parties agree;
  - iv) If the Lessor determines that the land is required for an alternative public need the lease can be terminated provided a notice period of 2 years (or another period at Councils election) is provided by the lessor
  - v) Public Liability Insurance of \$2 million to be provided;
  - vi) Lessee to maintain the grounds, buildings and all other improvements;
  - vii) Health and Safety Plan to be provided annually;
  - viii) All other terms and conditions to reflect the current lease.
- b. **Delegate** authority to approve final terms and conditions and execution authority to the General Manager, Infrastructure.

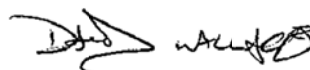
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25/08/2015

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## Background

- 1 The Arrowtown Community Preschool (Arrowtown Preschool) is a non-profit childcare facility, situated on the corner of Durham and Caernarvon Streets, Arrowtown. On 1 October 1995, the Arrowtown Preschool was granted a lease from the Crown over land legally described as being Section 6 Pt 5 BLK XVIII Arrowtown Plantation, Certificate of Title OT392/102. The term of the lease is 19 years and 364 days, with no renewal provisions. The current lease is due to expire on 29 September 2015.
- 2 The site is home to two historic features, the first being a World War 1 field gun and the second being a memorial to those lost in World War 1 and World War 2. Also situated on site is Council-owned elderly person's housing, which has been constructed on the Caernarvon Street portion of the land. The Arrowtown Preschool leases the northwest corner of the site as per Attachment A.
- 3 The land that the Preschool is currently located on is owned by Council in fee simple and is not gazetted as reserve. The land is not designated under the Council's District Plan. The underlying zone is residential (Residential Arrowtown Historic Management Zone).

## Comment

- 4 The Arrowtown Preschool is seeking a new lease with a greater term of 33 years, as this will provide certainty for the future of this facility. It is currently running at full capacity, with 38 children enrolled who attend on a daily basis. The applicant also operates another preschool in Cotter Avenue, on a Ministry of Education site, which is also running at full capacity.
- 5 The Preschool is operated as a non-profit organisation, which is governed by a Board of Governance elected by families who live in the area. It relies heavily on being able to occupy the site at a reasonable and affordable lease from Council, which it has done so for 40 years.
- 6 The Community Pricing Policy sets rent for education groups occupying Council land at \$0.60 cents per square metre. As the Arrowtown Preschool lease covers 1,000 square metres, the rent currently charged is \$600.00 plus GST per annum. The applicant has requested that the rent continues to be in line with this.
- 7 The site is endowment land for Arrowtown for which the Council has a fee-simple title. Given the land is freehold, it is considered that the lease is appropriate for the site, granted pursuant to the Property Law Act 2010. As the land is not reserve, public notification of the intention to grant a lease is not required.
- 8 It is important to ensure that regardless of the term of the lease, given the very low proposed level of rent for the lease, it is appropriate that Council protect its position regarding future use of the leased land. While it is unlikely to be required for a greater public purpose, the lease will provide for termination, with a suitably long notice period (2 years suggested), at the Council's election

where the land is required for an alternative public need. This will avoid the situation which arose in respect of the Arrowtown Sports Facility where Council had no ability to terminate a lease for the Scouts without cause, despite the leaseholder paying a peppercorn rental.

## Options

- 9 Option one: To grant a lease to the Arrowtown Community Preschool Inc over the land currently occupied being Section 6 Pt 5 Blk XVIII Arrowtown Plantation for 33 years subject to standard terms and conditions.

***Advantages:***

- 10 Supporting a community organisation and making provisions for childcare facilities to be available to the community.

***Disadvantages:***

- 11 By granting this lease, Council land is effectively occupied for a further 33 years, restricting any other activities that may be proposed on this site.

- 12 Option two: To grant a lease to the Arrowtown Community Preschool Inc over the land currently occupied being Section 6 Pt 5 Blk XVIII Arrowtown Plantation for a 10 year term with 2 rights of renewal requiring agreement from both parties and subject to other terms and conditions outlined in the recommendations above.

***Advantages:***

- 13 Supporting a community organisation and making provisions for childcare facilities to be available to the community.

- 14 Allows Council to decide the most appropriate use for the freehold land at 10 year intervals.

***Disadvantages:***

- 15 By granting this lease, Council land is effectively occupied for a further 10 years, restricting any other activities that may be proposed on this site.

- 16 Option three: To grant a lease to the Arrowtown Community Preschool over the land currently occupied being Section 6 Pt 5 Blk XVIII Arrowtown, subject to different terms and conditions.

***Advantages:***

- 17 An alternative term for the lease may give Council more flexibility for the use of the land in the future.

***Disadvantages:***

- 18 The disadvantages are similar to those considered for option 1, but any other terms and conditions omitted or introduced may result in other disadvantage that have not been identified in this report.

19 Option four: Not approve the proposed new lease.

***Advantages:***

20 Declining the lease means the land would be made available to be utilised in other ways by the Council and the Community.

***Disadvantages:***

21 The community may be disadvantaged if the lease were not to be granted, due to the loss of an in demand childcare facility.

22 The recommendation in this report is to accept **option two**, as it enables the Arrowtown Community Preschool to continue to provide child care facilities to the community while giving Council a reasonable level of control relating to future options for use of the land.

***Significance and Engagement***

25 This matter is of low significance, because it does not involve a Council strategic asset, is of low importance to the Queenstown Lakes District, is not of interest to the general community, is not inconsistent with policy and strategy and does not impact on Council's capability and capacity.

***Risk***

26 This matter relates to operational risk OR11: 'decision making – working within legislation'. The risk is classed as low. The matter relates to this risk because the options highlighted require the Council to follow a regulatory process in order to grant a lease. A variety of operational risks (such as meeting levels of service, regulatory compliance and the health and safety risks associated with parties using reserves land) are triggered when the Council considers whether or not to grant the lease requested by the Arrowtown Community Preschool. This report recommends that risk OR11 is tolerated. Deferring consideration of operational risks will not affect Council's ability to manage those risks in this case.

**Financial Implications**

27 The Arrowtown Community Preschool will pay for a new lease to be drafted. Rent from the Preschool will be consistent with the Community Pricing Policy, which is set at a rate of \$0.60 cents per square metre for education groups.

**Council Policies, Strategies and Bylaws**

28 The following Council policies, strategies and bylaws were considered:

Community Facilities Funding Policy 2011 – consistent with user group 1.6 of the policy whereby education groups rent be set at \$0.60cents per square metre.

Significance and Engagement Policy 2014 – this proposal is not deemed significant as it does not impact significantly on Council assets, and does not affect a large number of residents and ratepayers to a moderate extent.

Arrowtown-Lake Hayes Reserve Management plan 2013 – Whilst the land owned by Council is fee simple and is not gazetted as reserve, it is included in the Management Plan for completeness. The recommended option is consistent with the principles set out in the named policy.

This matter is not included in the 10-Year Plan/Annual Plan. Funding for the new lease to be drafted will be paid for by the Arrowtown Community Preschool.

### **Local Government Act 2002 Purpose Provisions**

29 The recommended option:

- Will help meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses by enabling the Arrowtown Community Preschool to provide childcare facilities to the community;
- Is consistent with the Council's plans and policies; and
- Would not alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the Council, or transfer the ownership or control of a strategic asset to or from the Council.

### **Consultation: Community Views and Preferences**

30 No consultation is envisaged or required by Council as the building is on freehold land, has low significance with regard to the Significance and Engagement Policy 2014, is consistent with s10 of the Local Government Act.

### **Attachments**

A Arrowtown Community Preschool – Lease Area

Arrowtown Community Preschool  
Attachment A

